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Chairman: Mrs. ESPINOSA (Mexico)

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* Items which the Committee has decided to consider together.

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The meeting was called to order at 10.10 a.m.

AGENDA ITEM 108: ELIMINATION OF RACISM AND RACIAL DISCRIMINATION (A/51/3 (Parts I and II), A/51/18, 90, 301, 427, 430, 435, A/51/462-S/1996/831 and A/51/541)

AGENDA ITEM 109: RIGHT OF PEOPLES TO SELF-DETERMINATION (A/51/392, 414 and A/51/532-S/1996/864)

1. Mr. FALL (Assistant Secretary-General for Human Rights), introducing agenda item 108, observed that, as indicated in the report of the Committee on the Elimination of Racial Discrimination (A/51/18), it had considered 19 periodic reports from States parties to the International Convention on the Elimination of All Forms of Racial Discrimination. Moreover, the debate had sadly testified to the persistence of racial or ethnic discrimination. Under its early-warning and urgent procedures, the Committee had considered the situations in Bosnia and Herzegovina, the Federal Republic of Yugoslavia, Burundi, Rwanda, Liberia and Cyprus. In the case of the 13 States parties whose reports were five or more years overdue, the Committee had, as in the past, proceeded to consider the situation in those countries on the basis primarily of their previous reports - a less-than-ideal arrangements which had actually prompted a few of the States involved to submit new reports. In the case of States parties which had failed for 19 years to submit their initial reports, the Committee had decided to consider the situation in their countries in a future session on the basis of other United Nations reports on those countries. The Committee had adopted three general recommendations (annex VIII to the report), regarding State obligations under article 5 of the Convention, the right of self-determination, and the right of return of refugees and displaced persons. It had expanded its cooperation with other major international bodies dealing with racial discrimination in the various regions of the world and with other United Nations bodies active in that field, and continued its long-standing cooperation with agencies like the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO).

2. In the previous year, five more States had ratified the Convention, bringing the total to 148 States parties. Luxembourg had become the 23rd country to recognize the Committee's competence under article 14 to consider communications from individuals or groups, but the majority of States parties still had not done so, with the result that the Committee had received only about 10 communications.

3. The report of the Secretary-General on the financial situation of the Committee (A/51/430) indicated that to date only 17 States parties had accepted the amendment to the Convention that would authorize the financing of the Committee from the regular budget of the United Nations on a permanent basis; ratification by two thirds of the States parties would be needed before the amendment could enter into force. Moreover, a number of States parties, listed in the annex to the report, were still in arrears from the non-payment of previous assessments.

4. With regard to the issues related to the Third Decade to Combat Racism and Racial Discrimination, which was the subject of General Assembly

resolution 50/136, it should be noted that the situation of migrant workers, asylum-seekers and immigrants lay at the very heart of the question of racism and racial discrimination. Increasingly restrictive laws had made their situation increasingly precarious, and massive and sudden expulsions of migrant workers and asylum-seekers in many parts of the world seemed to have become a systematic method for regulating migratory movements, thus calling into question the very principle of non-discrimination.

5. The report submitted by the Special Rapporteur on contemporary forms of racism and racial discrimination, xenophobia and related intolerance (A/51/301) contained detailed information on manifestations of racism and racial discrimination. The Centre for Human Rights had organized in September in Geneva, as part of the Decade-related activities, a seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, with emphasis on articles 4 and 6. One of the issues raised was the use of modern means of communication like the Internet to spread racist propaganda, and national and international steps had been proposed to deal with that problem, such as the holding of a seminar sponsored by the Office of the High Commissioner and the Centre for Human Rights, bringing together various United Nations bodies and the Internet service providers to discuss the use of the Internet in ways consistent with human rights. The possibility of holding a world conference to combat racism, racial discrimination, xenophobia and other related contemporary forms of intolerance, broached on the recommendation of the Third Committee in General Assembly resolution 50/136, had not made much headway, since only two States had thus far expressed their interest to the Secretary-General. It should be noted also that non-governmental organizations played a crucial role in denouncing racist and discriminatory practices and in supporting the victims of racism and racial discrimination.

6. Introducing agenda item 109, he observed that the right of peoples to self-determination was the keystone of the system for the protection and promotion of human rights. In that context, General Assembly resolution 50/140 had reaffirmed the right of the Palestinian people to self-determination. The use of mercenaries had been identified as a common means of preventing the exercise of the right to self-determination, and the General Assembly had also expressed concern on that account.

7. Mr. BERNALES BALLESTEROS (Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries), introducing his report (A/51/392), said that he had dealt in paragraphs 51 to 54 with the new elements he had identified in the use of mercenaries to undermine the rights of peoples to self-determination, as requested in General Assembly resolution 50/138, and made specific recommendations in that regard. The evidence confirmed that mercenaries, as previously reported, had been involved in criminal acts and armed conflicts in such countries as South Africa during the apartheid era and the former Yugoslavia (paras. 15 to 25 of the report), and the practice of resorting to mercenaries had become increasingly widespread, with consequences that should not be underestimated.

8. Lacunae in existing legislation and a questionable flexibility in qualifying a person as a mercenary had facilitated the spread of mercenary activities. The persistence of mercenary acts, the range and variety of the

forms in which they were carried out and the covert networks involved suggested that nations, especially the smallest and weakest, were not adequately protected against the manifold use of mercenaries. It would therefore be proper to revise the existing legal texts and find criteria that best reinforced the observance of human rights, State sovereignty and the self-determination of peoples (ibid., para. 25). The relevant international legal instruments were imperfect tools for dealing with the issue, given the capacity of mercenaries for diversification and ease of concealment. He had indicated a number of the legal shortcomings in paragraph 26 of his report, and dealt in paragraphs 27 and 28 with various loopholes that could give mercenary activities the appearance of being within the law, recommending steps the international community should take.

9. The international community should take a single, firm and unwavering stand against mercenary activities, avoiding a contradiction between statements formally condemning mercenaries and concessions made in practice to efficient services performed by individuals or companies with a mercenary past that were currently engaged in suspicious activities. In a new development, companies had sprung up in several African countries, offering internal security services in exchange for high pay and profits from the development of natural resources. He had recently visited South Africa to study such activities in greater detail, and had found that the companies were usually organized by persons with proven links to mercenary activities and generally hired staffs with prior military and police experience. Clearly, not all military or police services provided to a State by foreigners or by private foreign companies were illegal. The problem lay in the grey areas and the limits that had to be set to prevent such advisers from becoming active in internal armed conflicts or in internal security affairs that affected the exercise of internationally recognized civil and political rights and freedoms.

10. His report did not offer final conclusions, although his mission to South Africa at the end of October, during which he had received much cooperation from authorities, held many interviews and gathered much documentation, had been particularly illuminating and would allow him to make substantive recommendations in his next report. He drew attention, however, to a number of questions he had raised in paragraph 34 and 35 of the current report. The hiring of mercenaries to guarantee internal security and public order in African States could be regarded as a threat to the inalienable sovereign responsibility of States for their own internal order and security and to their responsibility to prevent the repression of their citizens or the violation of their human rights; and the international community should examine the extent to which it considered the recruitment of mercenaries to be legal. Such issues had to be resolved in the light of a better knowledge of the facts and a systematic analysis of political, legal and operational criteria applicable to mercenary activities. It was regrettable that the meeting of experts to consider the issue of mercenaries in depth, as repeatedly recommended by the General Assembly, had not been convened, owing to lack of funds. The failure to take a common and strong position against mercenaries encouraged their existence, despite isolated action by individual countries.

11. Mr. GLÈLÈ-AHANHANZO (Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance), introducing his report (A/51/301), said that there were recurrent

forms of racism and racial discrimination which had become particularly acute owing to the worldwide immigration crisis, the denial of the rights of immigrants and the use of electronic and computer networks, such as the Internet, to incite racial hatred, anti-Semitism and the desecration of places of worship and cemeteries.

12. The question of immigration seemed to be closely linked to that of development. The developed countries and the countries with intermediate levels of income in the South encouraged immigration on the part of poor people. Demographic studies indicated that that trend would continue as the work force in the countries of the North diminished. In that connection, he pointed out that only seven countries had ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, whereas 20 ratifications or accessions were necessary for its entry into force.

13. The immigration problem, which gave rise to racial discrimination and stirred up xenophobia, was a worldwide phenomenon. Discriminatory barriers were being erected against men and women seeking to better their lives. Everywhere, immigrants had become scapegoats for the economic crisis and lack of security. Xenophobia was increasing at an alarming rate amid the indifference of the general public. In Asia, intra-regional migration was causing tension between countries of emigration and host countries owing to the treatment of immigrants. In Africa, Angola and Zambia organized charter flights for immigrants from West Africa. Foreigners were considered responsible for the lack of security in Benin and persons without documents were escorted to the border. Xenophobic tracts were being circulated in Côte d'Ivoire; and South Africa reportedly had spend more than $30 million to repatriate 100,000 clandestine immigrants out of the 10 million illegal immigrants in that country, half of whom were from Mozambique. The same harshness with regard to immigration was evident in Europe, where most of the member States of the European Union had toughened their legislation relating to immigrants.

14. Consideration should also be given to the situation of immigrants in the United States of America. Each year approximately 300,000 persons entered that country from Mexico. While most of them were Mexican nationals, Mexico was also a transit zone for Chinese, Indians, Cubans, Russians and Central Americans. The Mexican national human rights commission had drawn attention to the fact that immigrants in transit in Mexico were also the victims of maltreatment by Mexican immigration officials.

15. He expressed appreciation to those countries that had received him and permitted him to consider the question of racial discrimination and xenophobia with the competent authorities and non-governmental organizations. He also wished to request the General Assembly to commend the Governments of the United States, Brazil, Germany, France and the United Kingdom, which had entered into a dialogue with him and listened attentively to his recommendations, as well as Colombia, where the authorities had undertaken a commitment to put an end to racial discrimination against indigenous and Afro-Colombian communities. He urged the General Assembly to give him the financial means and the staff to enable him to carry out his mandate. He recommended that the General Assembly should convene without further delay a world conference on racism, racial discrimination and xenophobia and include the question of immigration and xenophobia in the agenda, or explore the possibility of holding another

conference on that specific theme. Furthermore, in addition to the human rights education measures to promote tolerance and peace, already recommended in the previous report, he suggested that the General Assembly should consider the possibility of establishing a fund to assist ethnic or racial communities that were victims of racial discrimination and condemned to live in unacceptable conditions of injustice and inequality.

16. Mr. REYES-RODRIGUEZ (Cuba) said that his country had not received any request concerning its views on the possibility of holding a world conference to combat racism, racial discrimination, xenophobia and other related forms of intolerance. Accordingly, he inquired how the Centre for Human Rights had requested Member States and intergovernmental as well as non-governmental organizations to provide their views on that question. Cuba felt that, although only two countries had replied, a report or oral presentation should have been provided to the Committee. His country firmly supported the holding of such a conference and had not replied because it had not received any request.

17. Mr. FALL (Assistant Secretary-General for Human Rights) said that in resolution 50/136, the General Assembly had requested the Secretary-General to consult Member States and intergovernmental and non-governmental organizations on the possibility of holding a world conference to combat racism. Accordingly, a note verbale dated 15 March 1996 had been sent to the diplomatic missions of Member States in Geneva and to the organizations in question in order to obtain their views on the holding of such a conference. Only Denmark and Uruguay had replied. The Secretary-General had therefore informed the Economic and Social Council that he had not received a sufficient number of replies to suggest a decision that might be taken by the General Assembly in that regard. It was therefore for the General Assembly and the Third Committee to decide on the question of holding such a conference.

18. Mr. REYES-RODRIGUEZ (Cuba) said that racism, racial discrimination and intolerance directed against immigrants seemed to be increasing in the countries of the North. That question should be dealt with on a priority basis, taking into account the growing gap between developed and developing countries. Draconian laws aimed at depriving immigrants of their basic human rights had been enacted in several countries. The institutionalization of exclusivist and xenophobic practices had reached extremely serious levels. Political parties founded on platforms calling for racial exclusion had gained headway in several countries. Worldwide information networks such as Internet were being increasingly used to spread racist propaganda.

19. Accordingly, it was urgent to withdraw all the reservations to article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination. Prohibiting the dissemination of ideas based on racial superiority was a legitimate restriction of freedom of expression and association. Cuba attached the highest priority to the convening of a world conference on racism, racial discrimination, xenophobia and other related forms of intolerance, as recommended in the Special Rapporteur's report (A/51/301). His delegation hoped that the necessary additional resources would be provided to the Special Rapporteur and to the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination in order to achieve the objectives set forth.

20. The right of all States to the complete exercise of national sovereignty and the right of all peoples to self-determination were foundations on which the post-war legal order and the United Nations itself had been built. In addition to the need to put an end to occupation and foreign domination and guarantee the rights of peoples to self-determination, it was also necessary to prevent ethnic and national problems from becoming a destabilizing factor detrimental to the territorial integrity and political independence of States. The exercise of the right of peoples to self-determination was a prerequisite for all human rights.

21. Cuba reaffirmed the right of the Palestinian people to an independent State, with Jerusalem as its capital, and called for the return of all Arab territories occupied by Israel, including the West Bank, the Gaza Strip, the Golan Heights and southern Lebanon. Cuba also demanded the return of the territory which the United States naval base at Guantánamo was illegally occupying against the will of the Cuban people. His Government would never renounce its right to exercise sovereignty over its entire national territory, including its airspace and territorial waters.

22. Ms. SAIGA (Japan) said that the dismantling of the system of apartheid by South Africa was an epoch-making event in the history of the United Nations. However, other forms of racism and racial discrimination continued to plague the world, as evidenced by the recent policy of ethnic cleansing carried out in the former Yugoslavia and the ethnic conflict which had ravaged Rwanda and Burundi.

23. Japan fully supported the Third Decade to Combat Racism and Racial Discrimination, and urged the entire international community to participate in its work. She emphasized the importance of the Centre for Human Rights in strengthening coordination between relevant programmes carried out by the United Nations, specialized agencies and non-governmental organizations. Lack of interest and support had rendered the Centre almost unable to conduct any activities under the Third Decade, and she therefore reminded Member States that it was essential to contribute to the Trust Fund for the Programme for the Third Decade.

24. Education, especially for young people, together with information and awareness, could play an essential role in eliminating racial prejudice and stereotypes, fostering mutual understanding and tolerance, and achieving racial harmony. The International Convention on the Elimination of All Forms of Racial Discrimination had played a key role in that respect.

25. It was important that Member States should renew efforts to achieve universal realization of the right of peoples to self-determination. Japan had always supported the peace talks between the Government of Israel and the Palestinian Authority. However, her delegation was seriously concerned about the recent escalation of tensions in the West Bank and in the Gaza Strip. It urged the two parties to continue their efforts to overcome the current impasse so that the legitimate rights of the Palestinians, including the right to self-determination, were respected. Above all, efforts should be intensified to overcome existing mistrust by refraining from any action that could harm the prospects for peace. On the occasion of Yasser Arafat's visit in September 1996, Japan had granted the Palestinians US$ 3 million in emergency assistance, channelled through the United Nations Development Programme (UNDP), to provide employment opportunities and improve infrastructure in the Gaza Strip.

26. Significant changes had taken place in the world with regard to the issues of racial discrimination and self-determination, and the Third Committee should ensure that it addressed conditions as they were currently, and not as they had been in the past.

27. Mr. IZQUIERDO (Ecuador) said that, despite the intensive work of the Committee on the Elimination of Racial Discrimination over the past 26 years, the situation with regard to racial discrimination had got worse in many parts of the world, and even degenerated into ethnic cleansing.

28. Moreover, the Committee's work was seriously impeded by the failure of certain States parties to comply with their reporting commitments. Despite constant reminders, many States parties' reports were excessively overdue. Several States had not even submitted their initial report. Furthermore, it was essential that any representative sent to participate in the Committee's review had the necessary knowledge and experience to ensure that discussions were productive. In that regard, he noted that some States could not take part in the work of the Committee, since they did not have diplomatic missions in Geneva. The cooperation of all States parties was, moreover, essential to ensure compliance with the Convention. They should adopt immediate legislative or other measures to eradicate all incitement to racial hatred and to ban organizations engaged in such activities.

29. His delegation also wished to call attention to the conclusions and recommendations adopted by the seminar held in Geneva in September 1996 to assess the implementation of the Convention (A/51/541, paras. 12-18).

30. Mr. WISSA (Egypt) said that the United Nations had been established when the struggle of peoples for self-determination was beginning; the increase in the number of Member States showed that many peoples had exercised the right to self-determination and demonstrated the positive role of the United Nations.

31. The establishment of the United Nations had also coincided with the Palestinian conflict and the Israeli-Arab conflict, and the course of those conflicts, in war and in peace, had been influenced by the international community. Much of the Organization's influence as a symbol of international legitimacy was reflected in the important resolutions adopted with regard to the Palestinian question, which had created the basis for a comprehensive, just and lasting settlement of the Middle East situation, including the inalienable right of the Palestinian people to self-determination.

32. The Egyptian Government had worked ceaselessly to establish peace throughout the Middle East, but particularly with regard to Israel and Palestine, in order to guarantee the right of the Palestinian people to self-determination and the establishment of a Palestinian State. His delegation hoped that progress would be made in respect of the occupied sectors of Syria and Lebanon in order to guarantee those States sovereignty in their own territory and ensure a solid basis for a just and lasting peace in the region.

33. His delegation would be submitting a draft resolution on the right of the Palestinian people to self-determination, as had been done at the fiftieth session, and hoped that it would be adopted by consensus.

34. With regard to the report of the Special Rapporteur on the use of mercenaries (A/51/392), his delegation reiterated its repudiation of mercenary activities, as they constituted a violation of the Charter and of peoples' right to self-determination. It called on the international community to work together to combat the phenomenon.

35. Mr. VAN-DUNEM "MBINDA" (Angola), speaking on behalf of the member countries of the Southern African Development Community (SADC), said that they attached the highest importance to the eradication of all forms of racism and racial discrimination. Despite the commitment of Governments and pertinent United Nations agencies, that goal had not yet been achieved.

36. Recognition of the principle that all human beings are created free with equal rights and dignity was the cornerstone of world peace, freedom and justice. SADC countries reaffirmed their total commitment to that principle and resolutely opposed all manifestations of segregation and intolerance.

37. Ethnic or racial discrimination was a constant source of instability and of political and social upheaval. Consequently, the anti-racist struggle enjoyed wide support throughout the international community. The growth of international awareness during two decades of struggle against racism and racial discrimination had made possible substantial advances in the promotion of the right to equality and dignity. Those advances included new international mechanisms to counter racism and social discrimination, national legislation and other measures to provide guarantees to individuals and social groups victimized by racial discrimination, and the eradication of apartheid in South Africa and Namibia.

38. Despite those advances, SADC countries were concerned about frequent racist attacks against minorities, asylum-seekers and migrant workers in many countries. Even more disquieting were the cases when institutions in charge of law and order were directly involved in the violation of rights. SADC countries therefore appealed to all Governments to reinforce mechanisms to protect vulnerable groups, by thoroughly investigating all violations and punishing the culprits.

39. SADC countries had joined in the call for a Third Decade to Combat Racism and Racial Discrimination and for the appointment of a Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related forms of intolerance. Although those measures alone would not guarantee the eradication of those phenomena, they provided an important tool to assist Governments in the struggle against racism. It was therefore important to obtain the required funding for the Programme of Action for the Third Decade and to provide the Special Rapporteur with the resources to fulfil his mandate.

40. With regard to the right to self-determination, the continuing denial of that right by occupying Powers constituted a serious obstacle in United Nations efforts to guarantee all peoples the full exercise of their rights and freedoms. SADC member countries reaffirmed their support for the right to self-determination of the peoples of Western Sahara, East Timor and the Arab occupied territories.

41. Mr. CHRISTOFIDES (South Africa) said he wished to confirm that the Special Rapporteur on the use of mercenaries had visited South Africa from 20 to 30 October, when he had been informed that draft legislation on mercenaries would be submitted to Parliament in early 1997. He also confirmed that South Africa was happy to extend an invitation to any thematic special rapporteur, and did not believe that the mandate of the Special Rapporteur on the question of mercenaries needed to be revised in any way.

The meeting rose at noon.